

**CITY OF MILPITAS
APPROVED**

PLANNING COMMISSION SUBCOMMITTEE MINUTES

July 11, 2007

**I.
ROLL CALL**

Present: Azevedo and Sandhu
Absent: None
Staff: Bejines, Hom, Kunsman and Reliford

**1. “S” ZONE
APPROVAL
AMENDMENT NO.
SA2007-27**

Cindy Hom, Project Planner, presented a request to install (3) new decorative graphic panels for Jack-in-the-Box that will be wall mounted on the north side of the restaurant building located at 1700 S. Main Street. Ms. Hom recommended approval with conditions.

Motion to approve “S” Zone Approval Amendment No. SA2007-27.

M/S: Azevedo/Sandhu

AYES: 2

NOES: 0

**2. “S” ZONE
AMENDMENT
APPROVAL NO. SA2007-
35**

Tiffany Kunsman, Project Planner, presented a request to replace an existing 3’ X 10’ non-illuminated monument sign that sits about 70” in height, with a 4’ X 7’8” internally illuminated monument sign that sits 5’11” in height located at 1873 Barber Lane. Ms. Kunsman recommended approval with conditions.

Motion to approve “S” Zone Approval Amendment No. SA2007-35.

M/S: Sandhu/Azevedo

AYES: 2

NOES: 0

**3. “S” ZONE
AMENDMENT
APPROVAL NO. SA2007-
34**

Tiffany Kunsman, Project Planner, presented a request to replace an existing 4’9” X 6’1” non-illuminated monument sign that sits about 70” in height, with a 4’ X 7’8” internally illuminated monument sign that sits 5’11” in height, and the replacement of two temporary directional signs with permanent directional signs located at 1501 McCarthy Blvd. Ms. Kunsman recommended approval with conditions.

Motion to approve “S” Zone Approval Amendment No. SA2007-34.

M/S: Azevedo/Sandhu

AYES: 2

NOES: 0

**4. “S” ZONE
AMENDMENT
APPROVAL NO. SA2007-
33**

Tiffany Kunsman, Project Planner, presented a request to replace an existing 4’9” X 6’1” non-illuminated monument sign that sits about 70” in height, with a 4’ X 7’8” internally illuminated monument sign that sits 5’11” in height located at 765 Sycamore. Ms. Kunsman recommended approval with conditions.

Motion to approve “S” Zone Approval Amendment No. SA2007-33.

M/S: Sandhu/Azevedo

AYES: 2

NOES: 0

**5. “S” ZONE
AMENDMENT
APPROVAL NO. SA2007-
36**

Tiffany Kunsman, Project Planner, presented a request to replace two (2) existing 4’9” X 6’1” non-illuminated monument sign that sits about 7’feet in height, with a 4’ X 7’8” internally illuminated monument sign that sits 5’11” in height, the replacement of one (1) store frontage externally illuminated wall sign with new internally illuminated wall sign, and the replacement of (2) informational wall signs located at 1621 Barber Lane. Ms. Kunsman recommended approval with conditions.

Motion to approve “S” Zone Approval Amendment No. SA2007-36.

M/S: Sandhu/Azevedo

AYES: 2

NOES: 0

**6. “S” ZONE
AMENDMENT
APPROVAL NO. SA2007-
39**

Tiffany Kunsman, Project Planner, presented a request to locate two (2) new monument signs on the entryway islands for the Hidden Lake Village II located at 584 Folsom Circle. Ms. Kunsman recommended approval as submitted.

Motion to approve “S” Zone Approval Amendment No. SA2007-39.

M/S: Azevedo/Sandhu

AYES: 2

NOES: 0

II. ADJOURNMENT

The meeting was adjourned at 6:40 p.m.

**CITY OF MILPITAS
APPROVED**

PLANNING COMMISSION MINUTES

July 11, 2007

**I.
PLEDGE OF
ALLEGIANCE**

Chair Williams called the meeting to order at 7:00 P.M. and led the Pledge of Allegiance.

**II.
ROLL CALL**

Present: Ali-Santosa, Azevedo, Ciardella, Mandal, Sandhu, Tabladillo and Williams

Absent: None

Staff: Bejines, Bradley, Carroll, Irannejad, Khaila, Maxwell and Reliford

**III.
PUBLIC FORUM**

Chair Williams invited members of the audience to address the Commission on any topic not on the agenda, noting that no response is required from the staff or Commission, but that the Commission may choose to agendaize the matter for a future meeting.

Guy Haas, 1277 Fallen Leaf Drive, lives within 300 feet of the proposed Matteson project, is concerned that he did not receive a public hearing notice and asked staff to explain.

Felix Reliford, Interim Planning Director, said that as required by state law, every resident that lives within 300 feet of the property must be notified. He is not sure why Mr. Haas was not notified and will have to get back to him.

**IV.
APPROVAL OF MINUTES
June 27, 2007**

Chair Williams called for approval of the minutes of the Planning Commission meeting of June 27, 2007.

Motion to approve the minutes of June 27, 2007.

M/S: Tabladillo/Sandhu

AYES: 5

NOES: 0

ABSTENTION: 2 (Azevedo and Mandal)

**V.
ANNOUNCEMENTS**

Mr. Reliford introduced Geoff Bradley and Bridgette Carroll with Metropolitan Planning Group, who provide contract-planning services for the City. Staff also hired a new senior planner who will be starting on Monday, July 16th and Momo Ishijima will be back from maternity leave on Wednesday, July 25th.

Commissioner Sandhu disclosed that John Baer contacted him at work to inquire if he had any questions about the project.

**VI.
CONFLICT
OF INTEREST**

Assistant City Attorney Richard Pio Roda asked if the Commission has any personal or financial conflict of interest on tonight's agenda.

Chair Williams said he lives within 500 feet of Item No. 2 and will not be discussing the project.

APPROVED
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**VII.
APPROVAL OF
AGENDA**

Chair Williams called for approval of the agenda.

Staff had no changes to the agenda.

Motion to approve the agenda as submitted.

M/S: Mandal/Azevedo

AYES: 7

NOES: 0

**VIII.
ELECTION
OFFICERS**

OF

Chair Williams turned the gavel over to Assistant City Attorney Pio Roda who opened the nominations for Planning Commissioner Chair.

Commissioner Sandhu nominated Cliff Williams for Chair.

Cliff Williams accepted the nomination.

There were no other nominations for Chair.

Assistant City Attorney Pio Roda took a vote and Cliff Williams was re-elected as Planning Commission Chair with 7 votes.

Assistant City Attorney Pio Roda opened nominations for Planning Commission Vice Chair.

Commissioner Azevedo nominated Sudhir Mandal for Vice Chair.

Sudhir Mandal accepted the nomination.

There were no other nominations for Vice Chair.

Assistant City Attorney Pio Roda took a vote and Sudhir Mandal was re-elected as Planning Commission Vice Chair with 7 votes.

**IX.
CONSENT CALENDAR**

Chair Williams asked whether staff, the Commission, or anyone in the audience wished to remove or add any items to the consent calendar.

Motion to approve Item No. 3 under New Business.

M/S: Williams/Azevedo

AYES: 7

NOES: 0

Chair Williams opened the public hearing on Item No. 2.

***3 CANCELLATION OF JULY 25, 2007 PLANNING COMMISSION MEETING:** A request to consider cancellation of the July 25, 2007 Planning Commission Meeting. *(Recommendation: Direct staff to post a Notice of Cancellation for the July 25, 2007 Planning Commission Meeting)*

**X.
PUBLIC HEARING**

**1. "S" ZONE
APPROVAL
AMENDMENT NO.
SA2007-46 AND USE
PERMIT AMENDMENT
NO. UA2007-9**

Cindy Maxwell, Project Planner, presented a request to modify building elevations and site plan to (1) exceed the maximum height limit of four stories and (2) reduce the required building setbacks for the "R4" Very High Density Residential zoning district for Aspen Family Apartments located at 1666 South Main Street. Ms. Maxwell recommended that the Commission deny approval of permit No. SA2007-46 and No. UA2007-9.

Chair Williams asked if there are any design changes? Ms. Maxwell said the style of the building is basically the same but it does add one floor to the bottom of the building and puts the parking garage at the floor of the building.

Commissioner Ciardella asked if the project totals 2,500 square feet and Ms. Maxwell said yes.

Vice Chair Mandal asked if there are any other structures in the City that have underground parking and Ms. Maxwell pointed out that City Hall has a one level underground parking garage.

Keyvan Irannejad, Chief Building Official, added that the Public Works building and the Police Dept. both have underground parking garages. He also pointed out that this project is approved and designed for a water table.

Commissioner Tabladillo asked how many stories is the Paragon project, which is located across from the Aspen project? Mr. Irannejad said the project is four stories and will be built at grade level.

Chair Williams introduced the applicant.

Joe Pagano, Applicant with Global Premier Development, 5 Park Plaza, Irvington, CA, said they have a couple of concerns about building the 2nd story-parking garage. The first reason is because they have dedicated a third of the land to public right-of-way and the second reason is because of the high water table. They will have to dig 27 feet underground and felt that is too deep and will incur a 1,000 pounds of pressure, which could eventually cause a water problem, which in turn could cause mold. He asked the Commission to approve their request.

Chair Williams asked Mr. Pagano if there are any studies done to validate their concerns?

Steve Clemmons, Geologist with SCS engineers, 6601 Cole Center Parkway, Pleasanton, CA, said their company did soil and groundwater sampling at the site and it was determined that the groundwater does not seem to be impacted and is not a health hazard for future residents however the deeper the excavation the more potential cause for issues.

Further discussion ensued between Chair Williams and Mr. Pagano.

Magdy Hannah, Global Premier Development, 5 Park Plaza, Irvington, CA, said this project is 100% affordable and the reason why they could not reduce the number of units is because they have been awarded the taxpayers program. The site is 2.6 acres and is only able to develop 101 units.

Mr. Magdy asked why is the Matteson project able to building five stories? Ms. Maxwell said the Matteson project is zoned TOD (Transit Overlay District), which allows them to build five stories.

Mr. Hannah said that the cost to build a two level parking garage is a hardship for the applicant and would like the Commission to help them out.

Mr. Reliford pointed out that staff has been meeting with Global Premier for two years now and the original agreement was to build two stories of underground parking.

Further discussion ensued between Chair Williams and Mr. Hannah.

Commissioner Ciardella asked the consultant to explain the water table? **Ted Christensen, Independent Roofing and Waterproof Consultants, 6955 cedar Court, Dublin, CA**, said the water table is approximately seven feet at the site.

Vice Chair Mandal said he is concerned because the project was already approved in March and asked the applicant when did they discover that the water table was going to be a problem? Mr. Pagano said it was an oversight because they were more concerned about getting the project approved.

Commissioner Tabladillo said she is concerned the applicant rushed the project, got it approved and is now coming back and trying to change the parking garage design.

Tim, Mold and Environmental Specialist, 3137 Diablo Avenue, Hayward, CA, said that digging 27 feet underground will eventually cause a water intrusion which will cause mold to grow and could affect residents.

Mr. Irannejad responded there are a number of two stories parking garages in the Bay Area and it should not cause any problems.

Commissioner Ciardella asked if the proposed windows are solid or open? Mr. Pagano said the windows are metal grate, which will be filled with vines overtime.

Commissioner Ciardella asked if the applicant has an exhaust system that will take care of the vehicles?

Ben, KTG Architects, 1792 Mitchell South, Irvington CA, explained the exhaust system that is being designed.

Commissioner Ciardella asked as the wind blows in that area, would it cause a problem with exhaust for the people that live upstairs? The applicant replied no.

Commissioner Sandhu said the project was not handled properly and felt that he did the right thing by not approving the project the first time.

Chair Williams opened the public hearing.

Duane Allen, Pines Resident, said he has seen a lot of changes in the neighborhood including an accumulation of cars and traffic. He asked that the Commission not approve the project as amended.

Guy Haas, 1277 Fallen Leaf, in the Pines, asked if any consideration was given to split the parking garage by raising it half a story. He was also concerned about the mold issues.

Motion to close the public hearing.

M/S: Mandal/Sandhu

AYES: 7

NOES: 0

Chair Williams said that part of the Commission's responsibility is not to look at financial hardships and is more concerned about providing the right infrastructure and agrees with staff to deny the application.

Vice Chair Mandal felt the propose design element does not fit well with the project and agrees with Chair Williams.

Commissioner Tabladillo also agrees with Chair Williams and Vice Chair Mandal.

Commissioner Sandhu said that he is concerned about the potential mold and suggested that the applicant work with staff to find a reasonable solution and he will not support denying the project because the builder is not confident about the parking garage.

Commissioner Ali-Santosa asked if the developer could redesign the project and Mr. Reliford said it is up to the Planning Commission to make that request.

Commissioner Ciardella said he would like to see the applicant work with staff to come up with other ideas.

Assistant City Attorney Pio Roda clarified that staff's recommendation is to deny the "S" Zone Amendment and the Use Permit Amendment which means that the current "S" Zone and Use Permit would not be amended and the developer would proceed with the original permit approvals as approved in March 2007.

Commissioner Tabladillo asked if the applicant could appeal the project if the Commission denied it and Assistant City Attorney Pio Roda said yes.

Vice Chair Mandal asked if the Commission could continue the public hearing and Mr. Reliford said yes.

Motion to deny the "S" Zone Approval Amendment No. SA2007-46 and Use Permit Amendment No. UA2007-9.

M/S: Azevedo/Williams

AYES: 5 (Ali-Santosa, Azevedo, Ciardella, Tabladillo and Williams)

NOES: 2 (Mandal and Sandhu)

Chair Williams stepped down for Item No. 2 due to conflict of interest and passed the gavel to Vice Chair Mandal.

2. SOUTH MAIN STREET PROJECT - GENERAL PLAN AMENDMENT NO. GP2006-2, MIDTOWN SPECIFIC PLAN AMENDMENT, ZONE CHANGE NO. ZC2006-2, SITE PLAN AND ARCHITECTURAL APPROVAL NO. SZ2006-7, MAJOR TENTATIVE MAP NO. MA2006-3 AND ENVIRONMENTAL IMPACT ASSESSMENT NO. EA2006-5

Bridgette Carroll, Project Planner, presented a request for a General Plan Amendment, Midtown Specific Plan Amendment, Rezoning, Site Plan and Architectural Review, Major Tentative Map, Planned Unit Development and Environmental Impact Assessment to allow for the construction of a 126-unit podium style residential condominium development on 2.72 acres on a vacant parcel at the intersection of South Main Street and South Abel Street. The property is proposed to be re-designated from General Commercial with Transit Oriented Development Overlay to Multi-Family Very High Density (31 to 40 dwelling units per acre) with Transit Oriented Development Overlay and rezoned from General Commercial with Transit Oriented Development and "S" Zone Overlay District "C2-TOD-S" to Multi-Family Very High Density with Transit Oriented Development and "S" Zone Overlay District "R4-TOD-S." The project includes a Planned Unit Development approval for approximately 2,800 square feet of retail use. A Mitigated Negative Declaration has been prepared for this project. Ms. Carroll recommended that the Commission approve the project with Conditions.

Mr. Reliford said the City's policy has been 20% affordable housing, however staff is recommending 15% for this project. Staff said their reason to grant this was because their mixed-use project will eventually provide the City future revenue. The applicant will pay for the Main Street Study Line. Also the applicant has asked for very little assistance from the Redevelopment Agency.

Vice Chair Mandal asked where would the parking be located for the retail area? Ms. Carroll said there would be 14 parking spaces for the retail located in the garage.

Vice Chair Mandal asked what kind of retail would be located? Mr. Reliford deferred the question to the applicant.

Commissioner Sandhu asked if there would be signage so that customers will know to park in the garage and Ms. Carroll deferred the question to the applicant.

Commissioner Tabladillo asked how big is the retail space and Ms. Carroll said it is 2,800 square feet.

Commissioner Tabladillo asked if the retail space could be split and Ms. Carroll said yes.

John Baer, Director of Development for Matteson Real Estate Equities, presented a PowerPoint presentation to the Commission. He also pointed out that the retail would consist of a Peet's Coffee, Jamba Juice, Mailboxes etc. or something similar and not a full-scale restaurant.

Commissioner Tabladillo asked what type of trees would be planted? **Dave Gates, Landscape Architect**, said the smaller evergreen trees will be planted inside and palm trees will be planted along the main entries and raised planters and queen palms will be planted along the podium.

Commissioner Tabladillo suggested that the applicant use a different type of species besides palm trees.

Mr. Gates said only four palm trees will be visible from the street.

Commissioner Tabladillo asked why is there only one entry point in and out of the parking area for the use of the retail space. Mr. Baer said that is correct however the residents will have two entry points to use in the parking garage and there will also be on-street parking as well.

Commissioner Tabladillo asked what is the policy in terms of hours of operation for a retail space? Mr. Baer said their company manages the retail portion and they are committed to providing the highest quality and agree that the retail spaces should close early so as not to disturb the residents. This will be noted in the Covenants, Conditions and Restrictions (CC&R's).

Commissioner Tabladillo said she wanted to make sure that Matteson does not bring a liquor store to the retail site and Mr. Baer agreed.

Commissioner Tabladillo asked if the project would have a tot lot in the recreation area? Mr. Baer said according to their market study, it was determined that their primary market is not family with children but singles, couples with no children, or couples with one child.

Commissioner Ciardella agreed with Commissioner Tabladillo to eliminate the palms and Mr. Baer agreed.

Mr. Baer pointed out that he needs clarification on six conditions of approval.

Vice Chair Mandal opened the public hearing.

Guy Haas, 1277 Fallen Leaf, Pines Resident, said instead of building parks the city is requiring a park in lieu fee. He asked if the City could request that the developer contribute to the maintenance of the park in the Pines development since the residents will most likely use that park. Mr. Reliford said park in lieu fees couldn't be paid for park maintenance because that money goes into the general fund.

Don Peoples, 3444 Spring Creek Lane, felt this project has a lot of merit because it is close to the transit facilities, Great Mall and has a mixed-use component.

Motion to close the public hearing.

M/S: Azevedo/Sandhu

AYES: 6

NOES: 0

Commissioner Ciardella asked if the developer could bring up the conditions he was concerned about? Assistant City Attorney Pio Roda said it is up to the Commission.

Commissioner Azevedo asked why did staff not work with the applicant beforehand? Ms. Carroll said that staff was unaware that they had questions.

Mr. Baer said they received their staff report two days before the meeting and did not have time to review the special conditions.

Mr. Reliford said that he would work with the developer.

Commissioner Tabladillo asked if the developer would consider helping out the Pines residents maintain their park. Assistant City Attorney Pio Roda said those fees are pursuant to the Quimby Act and would be above and beyond those fees.

Commissioner Ciardella suggested that if things change down the road, could the applicant put in a tot lot? Mr. Baer suggested that the Commission recommend the following statement in the CC&R's:

- *If the complexion of the project is different than anticipated, then the HOA can adjust the design of the courtyard to include a child's play area.*

Motion to approve General Plan Amendment No. GP2006-2, Midtown Specific Plan Amendment, Zone Change No. ZC2006-2, Site Plan and Architectural Approval No. SZ2006-7, Major Tentative Map No. MA2006-3 and Environmental Impact Assessment No. EA2006-5, with staff working with the developer on the approved special conditions to the satisfaction of staff and the developer, removal of the palm trees, adding the new provision referencing the child's play area into the CC&Rs, and that the special conditions of approval not deviate from the original design approved by the Commission.

M/S: Azevedo/Ali-Santosa

AYES: 6

NOES: 0

XI.
ADJOURNMENT

The July 25, 2007 meeting has been canceled and the meeting was adjourned at 9:39 p.m. to the next regular meeting of August 8, 2007.

Respectfully Submitted,

Felix Reliford
Principal Planner

Veronica Bejines
Recording Secretary

APPROVED
July 11, 2007